

WILLIAM ZELLMAR	§	
v.	§	CIVIL ACTION NO. 6:17cv386
WARDEN, GURNEY UNIT, ET AL.	§	

The Plaintiff William Zellmar, proceeding *pro se*, filed this lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Zellmar was ordered to pay an initial partial filing fee of \$84.00 on April 23, 2018. That order and another order denying discovery were sent to him and received on April 26, 2018. When Zellmar did not comply, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Zellmar did not file objections to this Report; instead, he filed another application for leave to proceed *in forma pauperis*, which was not accompanied by an inmate trust account data sheet. In the application, Zellmar states that his brother in law sent him \$1,000.00 in August of 2018, well after Zellmar had received the order assessing the initial partial filing fee. He offers no explanation why he could not have paid an \$84.00 initial partial filing fee. Zellmar has failed to prosecute his case or to obey an order of the Court.

Because Zellmar filed no objections to the Magistrate Judge's Report, he is barred from *de novo* review by the District Judge of the Magistrate Judge's findings, conclusions, and

recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 15) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. Fed. R. Civ. P. 41(b). It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** February 25, 2019.



Ron Clark, Senior District Judge